



City of Seattle

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Gregory J. Nickels, Mayor

**Department of Design, Construction and Land Use**

D. M. Sugimura, Director

**CITY OF SEATTLE  
ANALYSIS AND DECISION OF THE DIRECTOR  
OF THE DEPARTMENT OF DESIGN, CONSTRUCTION AND LAND USE**

**Application Number:** 2205804

**Applicant Name:** Jeff Wilson

**Address of Proposal:** 4105 Whitman Avenue North

**SUMMARY OF PROPOSED ACTION**

Master use permit to establish use for the construction of four (4), two-unit townhouses in an environmentally critical area (Steep Slope). Parking for eight (8) vehicles will be provided at ground level under the units. The project includes the demolition of the existing structures and approximately 25 cubic yards of grading.

The following approval is required:

**SEPA - Environmental Determination** - Chapter 25.05, Seattle Municipal Code.

**SEPA DETERMINATION:**      ☐ DNS      ☐ MDNS      ☐ EIS

☒ DNS with conditions

☐ DNS involving non-exempt grading, or demolition, or another agency with jurisdiction.

**BACKGROUND DATA**

**Site & Area Description**

The 9,600 square foot property is located at the northwest corner of the intersection of North 41<sup>st</sup> Street and Whitman Avenue North, one block east of Aurora Avenue North. Both 41<sup>st</sup> Street and Whitman Avenue are improved with concrete curbs, gutters, planting strips and sidewalks on

both sides of the street. There is a two-story 5-unit multi family dwelling (4105 Whitman Av N) centered on the property and a one-story single family dwelling (914 N 41<sup>st</sup> St.) adjacent to the alley on the westerly portion of the lot. There are six deciduous and coniferous trees located on the parcel and there are no street trees in the planting strip between the sidewalk and the adjacent streets. The southeasterly and northeasterly portions of the site are located in an identified environmentally critical area – steep slope. Based on a site visit, it appears that these areas identified as steep slope areas have been graded and there is now a retaining wall and a flat sidewalk in the area. The site was granted an ECA exemption (2008339).

The subject property is located in a Multi-family Lowrise 2 zone (L-2), which continues to the north and south. To the west properties are located in a Commercial 1 zone (C1-40). The remainder of the neighborhood to the east is zoned LDT, a less intensive multi-family zone and to the southeast for single family residential use (SF-5000). Development in the area consists of one and two-story single family houses and small multi-family structures to the north, south and east of the site. To the west across the alley is the commercial area along Aurora Avenue North, consistent with the zoning designation.

### Proposal

The applicant proposes to construct four two-unit townhouse buildings with pedestrian from Whitman Avenue to the east and vehicle access from the alley to the west. Parking for each unit will be provided within the building. The existing 5-unit apartment building located on the property will be demolished.

### Public Comments

The public comment period for this project ended on November 20, 2002. One comment was received from PSCAA regarding the requirements for asbestos removal, if any is encountered, during demolition of the existing structure.

### **ANALYSIS - SEPA**

The proposed construction of eight dwelling units on the subject parcel is not categorically exempt from SEPA review, regardless of the presence of an identified Environmentally Critical Area (ECA) on the parcels (*SMC 25.05.800.A.2*). Thus the scope of environmental review is not limited to the proposed construction within the identified environmental critical area. The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated October 11, 2002. The information in the checklist, project plans, and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (*SMC 25.05.665 D*) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority.

The Overview Policy states in part: "where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation" (subject to some limitations). Under certain limitations or circumstances (SMC 25.05.665 D 1-7) mitigation can be considered. Thus, a more detailed discussion of some of the potential impacts is appropriate.

### Short-term Impacts

The following temporary or construction-related impacts are expected: decreased air quality due to suspended particulates from demolition and construction activities, and hydrocarbon emissions from construction vehicles and equipment; increased dust caused by drying mud tracked onto streets during construction activities; increased traffic and demand for parking from construction equipment and personnel; increased noise; and consumption of renewable and non-renewable resources.

Adopted codes and/or ordinances provide mitigation for the identified impacts. The Stormwater, Grading and Drainage Control Code requires preparation of a soils report to evaluate the site conditions and provides recommendations for safe construction on sites where grading will involve cuts or fills of greater than three feet in height or grading greater than 100 cubic yards of material. The current proposal involves the grading of approximately 25 cubic yards of material. Excess material to be disposed of off site must be deposited in an approved site. The Stormwater, Grading and Drainage Control Code regulates site excavation for foundation purposes and requires that soil erosion control techniques be initiated for the duration of construction. These Code provisions also provide extensive conditioning authority and prescriptive construction methodology to assure safe construction techniques are used. The Street Use Ordinance requires watering streets to suppress dust, on-site washing of truck tires, removal of debris, and regulates obstruction of the pedestrian right-of-way. Puget Sound Clean Air Agency regulations require specific provisions for the removal of asbestos and the control of fugitive dust to protect air quality. The Building Code provides for construction measures in general. Finally, the Noise Ordinance regulates the time and amount of construction noise that is permitted in the city. Compliance with these applicable codes and ordinances will reduce or eliminate most short-term impacts to the environment. However, due to the fact that demolition of existing buildings will occur and that grading will be undertaken during construction, an additional analysis of air quality, traffic and grading impacts is warranted.

### Noise

There will be excavation required to prepare the building sites and foundations for the new buildings. Additionally, as development proceeds, noise associated with construction of the buildings could adversely affect the surrounding residential uses. Due to the proximity of neighboring residential uses, the limitations of the Noise Ordinance are found to be inadequate to mitigate the potential noise impacts. Pursuant to the SEPA Overview Policy (SMC.25.05.665) and the SEPA Construction Impacts Policy (SMC 25.05.675 B), mitigation is warranted. The hours of construction activity shall be limited to nonholiday weekdays between the hours of 7:30 a.m. and 6:00 p.m. and between the hours of 9:00 a.m. and 4:00 p.m. on Saturdays (except that

grading, delivery and pouring of cement, and similar noisy activities shall be prohibited on Saturdays). This condition may be modified by DCLU to allow work of an emergency nature. This condition may also be modified to permit low noise exterior work (e.g., installation of landscaping) after approval from DCLU.

### Air Quality

The Puget Sound Clean Air Agency (PSCAA) regulations require control of fugitive dust to protect air quality and will require permits for removal of asbestos (if any) during demolition. However, there is no permit process to ensure that PSCAA will be notified of the proposed demolition. A condition will be included pursuant to SEPA authority under SMC 25.05.675 A which requires that a copy of the PSCAA permit be submitted to DCLU before issuance of the demolition permit(s). This will assure proper handling and disposal of asbestos, if any is encountered on the proposal sites.

### Earth/Soils

The proponent has submitted a soils report, prepared by Adapt Engineering, for the sites as they currently exist in their developed states and with consideration of the proposed development. All recommendations within the soils report should be strictly adhered to.

The construction plans, including shoring of excavations as needed and erosion control techniques will be reviewed by DCLU. Any additional information required to show conformance with applicable ordinances and codes (The Stormwater, Grading and Drainage Control Code, DR 3-93, and 3-94) will be required prior to issuance of building permits. Applicable codes and ordinances provide extensive conditioning authority and prescriptive construction methodology to assure safe construction techniques are used. Therefore, due to the developed nature of the sites and surrounding neighborhood and the limited areas within the landslide prone areas, no additional earth/soils-related conditioning is warranted pursuant to SEPA policies.

### Traffic

The sites must be excavated to construct the proposed townhouses. City code (SMC 11.74) provides that material hauled in trucks not be spilled during transport. The City requires that a minimum of one foot of "freeboard" (area from level of material to the top of the truck container) be provided in loaded uncovered trucks which minimizes the amount of spilled material and dust from the truck bed enroute to or from a site.

Existing City Code (SMC 11.62) requires truck activities to use arterial streets to every extent possible. The proposal site is near several major arterials and traffic impacts resulting from the truck traffic associated with the hauling of debris will be of short duration and mitigated by enforcement of SMC 11.62. Therefore, no additional traffic-related conditioning is warranted pursuant to SEPA policies.

### Long-term Impacts

Long-term or use-related impacts associated with approval of this proposal include stormwater and erosion potential; and stability of the slope on site.

Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these are: the Stormwater, Grading and Drainage Control Code which requires on site detention of stormwater with provisions for controlled tightline release to an approved outlet and may require additional design elements to prevent isolated flooding; and, the City Energy Code which will require insulation for outside walls and energy efficient windows. Townhouse residential developments such as the current proposal generate approximately 9.5 average weekday trips per dwelling unit/lot, slightly less than one AM peak hour trip per lot and one PM peak hour trip per lot (ITE Manual, Sixth Ed., 1997). It is anticipated that after construction and upon occupation, the eight townhouse units, total, will generate approximately seventy-six (76) average daily trips and eight (8) AM and PM Peak Hour trips. These additional trips will not have a significant adverse impact on neighborhood traffic flow and intersections. Compliance with all applicable codes and ordinances is adequate to achieve sufficient mitigation of long term impacts and no further conditioning is warranted by SEPA policies.

#### **DECISION - SEPA**

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirements of the State Environmental Policy Act (RCW 43.21C), including the requirement to inform the public agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030 2c.
- [ ] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030 2c.

## **CONDITIONS – SEPA**

### Prior to Issuance of the DCLU Building Demolition Permit(s)

The applicant/responsible party shall:

1. Submit a copy of the PSCAA demolition permit(s), if necessary.

### During Construction

The following condition(s) to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. If more than one street abuts the site, conditions shall be posted at each street. The conditions will be affixed to placards prepared by DCLU. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.

1. The hours of construction activity shall be limited to non-holiday weekdays between the hours of 7:30 a.m. and 6:00 p.m. and between the hours of 9:00 a.m. and 4:00 p.m. on Saturday (except that grading, delivery and pouring of cement and similar noisy activities shall be prohibited on Saturday). This condition may be modified by DCLU to allow work of an emergency nature or allow low noise interior work after the exterior of the structure is enclosed. This condition may also be modified to permit low noise exterior work (e.g., installation of landscaping) after approval from DCLU.

Compliance with all conditions must be verified and approved by the Senior Land Use Planner for the area, Cheryl Waldman, (ph.: 206.233.3861) at the specified development stage, as required by the Director's decision. The applicant/responsible party is responsible for arranging an appointment with the Land Use Planner at least three (3) working days prior to the required inspection. The Land Use Planner shall determine whether the condition requires submission of additional documentation or field verification to assure that compliance has been achieved.

Signature: (signature on file) Date: May 8, 2003  
David Graves, AICP  
Contract Land Use Planner  
Department of Design, Construction and Land Use  
Land Use Division

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